

Office of the Governor
Patient's Compensation Fund Oversight Board

Rule 2 - Qualified Health Care Provider Services
(LAC 37:III.115)

Emergency Rule 2 (LAC 37:III.115) was adopted by the Patient's Compensation Fund Oversight Board (Oversight Board) on September 28, 2005, pursuant to Executive Order No. KBB 2005-40, which directed the Oversight Board to adopt emergency rules regarding a temporary suspension of the payment of Patient's Compensation Fund (PCF or Fund) surcharges by qualified health care providers (QHCPs) who reside, practice or operate in disaster affected areas (Affected QHCPs). The Oversight Board hereby reiterates, reaffirms and readopts all of the sections and provisions set forth in original Emergency Rule 2 by reference as if set forth herein *in extenso*.

At the time that Emergency Rule 2 was adopted by the Oversight Board, Proclamation No. 54 KBB 2005 effectively extended the State of Emergency through October 25, 2005. At that time, it was not anticipated that the State of Emergency would be extended beyond December 31, 2005. In Paragraph A.3.a. of LAC 37:III.115, Emergency Rule 2 provided that PCF surcharges for certain specified Affected QHCPs would be due and owing on the date that the State of Emergency was lifted, but that these Affected QHCPs would be allowed a "grace" period until January 1, 2006 to pay the appropriate PCF surcharges (renewal surcharge to extend PCF coverage for another year or to purchase a PCF extended reporting endorsement).

On November 1, 2005, Louisiana Insurance Commissioner J. Robert Wooley amended Emergency Rule 19 of the Department of Insurance to provide for the systematic and methodical termination of the suspension of statutory, regulatory and policy provisions requiring the timely payment of insurance premiums for continuous insurance coverage. Under the amendment to Emergency Rule 19, all suspensions were terminated no later than December 31, 2005.

On January 20, 2006, Governor Kathleen Babineaux Blanco issued Proclamation Nos. 9 KBB 2006 and 10 KBB 2006 and extended the State of Emergency within the State of Louisiana caused by Hurricanes Katrina and Rita through February 22, 2006.

The Oversight Board has determined that Emergency Rule 2 has had the desired effect of providing emergency relief to Affected QHCPs by providing additional time to pay the appropriate PCF surcharge (renewal or tail) to maintain enrollment in the Fund. Additionally, the Oversight Board believes that the Fund may be negatively impacted if Emergency Rule 2 is not terminated at some reasonable date in the near future.

Accordingly, the Oversight Board has determined that it is appropriate to establish a definitive date for all Affected QHCPs to pay the appropriate PCF surcharge to maintain their enrollment in the Fund and to set a date for the systematic and methodical termination of Emergency Rule 2. As such, Emergency Rule 2 is hereby amended to

provide for a definitive date for all Affected QHCPs to pay the appropriate PCF surcharge and to set a termination date for Emergency Rule 2. This Declaration of Emergency was adopted on February 2, 2006.

Title 37
INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 1. General Provisions

§117. Affirmation of Emergency Rule 2 and Amendment

A. Emergency Rule 2 was previously adopted by the Oversight Board on September 28, 2005. Emergency Rule 2 is hereby amended to provide for a definitive date for all Affected QHCPs to pay the appropriate PCF surcharges to maintain their enrollment in the Fund and to set forth a termination date for Emergency Rule 2. All provisions of Emergency Rule 2 not amended herein shall remain in full force and effect until terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§119. Cancellation of PCF qualification

A. The Oversight Board's Rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for Affected QHCPs until March 1, 2006. The cancellation or nonrenewal of PCF qualification for Affected QHCPs for failure to timely pay the applicable PCF surcharge (renewal or tail surcharge) is hereby suspended until March 1, 2006.

B. PCF surcharges for all Affected QHCPs (including self-insured QHCPs and those who are insured by an insurance company or by a trust fund), whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurred on or after August 26, 2005 but prior to or on January 29, 2006 (suspension period), shall be due, owing and payable on March 1, 2006. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the Oversight Board's previously promulgated rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§121. Termination; Survival

A. Emergency Rule 2 shall terminate at 12:00 a.m. (midnight) on March 1, 2006. However, paragraphs A.6 through A.8 of §115 shall survive the termination of Emergency Rule 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

§121. Severability Clause

A. If any section or provision of Emergency Rule 2, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 2, as originally adopted and/or amended, to the Affected QHCPs or circumstances that can be given effect without the invalid sections or provisions and the application to Affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3) and Executive Order No. KBB 05-40.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 32:

Baton Rouge, Louisiana, this 2nd day of February, 2006.

Lorraine LeBlanc
Executive Director